

## Biden holding up Connolly's bid for bench (The News Journal)

Informal deadline for nomination to U.S. District Court has passed

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Democratic Sen.

Joe Biden appears to be the last obstacle to U.S. Attorney Colm F. Connolly's getting a Senate confirmation hearing for a federal judgeship in Delaware.

Sen.

Tom Carper's office confirmed Friday that Carper had returned a "blue slip" on Connolly's nomination to the vacancy on the U.S. District Court in Wilmington.

"Sen.

Carper said he was not opposed to the committee holding a hearing on this nominee and to further consideration of this nomination," said Bette Phelan, a spokeswoman for Carper, D-Del.

A

"blue slip" is a Senate procedure giving home-state senators a chance to veto a judicial nomination proposed by the White House before a hearing is held. Staffers for Judiciary Chair Sen. Patrick Leahy said no hearing would be scheduled on Connolly until both of Delaware's senators returned their blue slips.

Biden's office, as it has in the past, declined comment.

"Sen. Biden does not comment on pending nominees," said Biden spokesperson Alexander Snyder-Mackler.

The

news of Carper's move comes amid a growing chorus of support for Connolly's confirmation, even as time appears to be running out.

The

Delaware Police Chiefs' Council recently sent a letter to Biden in support of Connolly, who was nominated by President Bush last year to fill the vacancy created more than a year ago when Judge Kent Jordan was elevated to the U.S. 3rd Circuit Court of Appeals.

All federal judicial nominations will expire at the end of this year, but the Senate's so-called "Thurmond Rule" calls for ending any consideration of nominees in the months leading up to a presidential election.

By some accounts, that deadline is June 1.

Judiciary Committee staffers said the "rule" is actually more of a guideline and the process has no firm shutdown date.

Long nomination process

If Connolly is not confirmed, it will mean the three district judges on the federal court in Wilmington will continue to do the work of four for at least another year.

The nomination and confirmation process takes a minimum of six months and it would need to restart when a new president takes over in January.

If that new president is a Democrat, by tradition, Biden would get to submit the list of judicial nominees as the senior Democrat in Delaware's congressional delegation.

Connolly's name was submitted last year by Rep. Mike Castle, R-Del., to President Bush, who then forwarded it to the Senate.

On Friday, Castle's office said news of Carper's approval was a positive sign.

Jeff

Dayton, longtime state director for Castle, said the congressman "hopes Sen. Biden, after reviewing the American Bar Association's unanimous rating of 'well qualified' and Colm's qualifications, will return his blue slip and help Delaware and the federal judiciary by shepherding Colm's nomination to a successful confirmation."

In its May 15 letter, the Police Chiefs' Council said they were "troubled" by Biden's seeming lack of support for Connolly.

"He

is by far the most proactive U.S. Attorney in the recent history of Delaware," wrote Newport Chief Michael Capriglione, chairman of the council, which represents every police agency in Delaware.

The

letter went on to praise Connolly as a gifted prosecutor "who has devoted his adult life to fighting crime," and for his decision in 2004 to seek federal criminal indictments against three New Castle County officials -- a case which ended in what Connolly himself called a disappointing plea deal.

'Delaware ... losing out'

Then-County Executive Tom

Gordon and his chief administrative officer, Sherry Freebery, were charged with federal racketeering and mail fraud. The case ended with Gordon admitting to two misdemeanors and Freebery admitting to a single felony count.

"You

might not agree with Connolly's decision to advance the Gordon-Freebery prosecution," Capriglione wrote. "I can tell you, in spite of how this case was portrayed in The News Journal, the Delaware law enforcement community was behind Connolly. It was sickening to see all too many excellent county police officers passed over ... while the politicians within the county police were rewarded for their inappropriate conduct."

Part

of the federal indictment alleged that Gordon and Freebery pressured county police officers to perform political duties, including driving people to the polls.

Connolly

is perhaps best known for his successful prosecution of the politically connected millionaire Tom Capano for the murder of Anne Marie Fahey, who was Carper's scheduling secretary.

On

Friday, Fahey's sister, Kathleen Fahey-Hosey, said her family supports Connolly's nomination not just because Connolly is a family friend, but because "it is the right thing to do."

She said if the nomination of Connolly fails, "it is the state of Delaware that is losing out."

On May 18, Fahey's brother, Brian, wrote an op-ed piece on behalf of the Fahey family calling for Connolly's confirmation.